

REMARKS

This paper is responsive to the Final Office Action mailed August 14, 2008. Claims 1-49 were pending before submission of this paper. Claims 4 and 12 have been cancelled. Claims 1, 13, 25, 37, and 49 have been amended. New Claim 50 has been added. Support for the amended claims can be found in the specification, and no new matter has been added by these amendments. Claims 1-3, 5-11, and 13-50 are currently pending and Claims 1-3, 5-11, and 13-49 stand rejected. In particular, Claims 1-24 and 37-48 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Claims 1-5, 7-17, 19-29, 31-41, and 43-49 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,957,366, issued to McDonald (hereinafter "McDonald"). Claims 6, 18, 30, and 42 were rejected under 35 U.S.C. § 103(a) as being obvious in view of McDonald. Applicants respectfully traverse the rejections.

Interview Summary

Applicants thank the Examiner for taking time on November 11, 2008, to participate in a telephone interview. The interview was conducted in light of the Office Action rejecting Claims 1-49. The discussion in the interview was directed to the distinction between amended Claim 1 and the cited prior art reference, McDonald. The rejections under 35 U.S.C. § 112 were discussed.

Although no agreement has been reached, Examiner Chow provided helpful suggestions to include additional elements in Claim 1, which would further distinguish the claimed invention over the cited prior art reference.

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Rejections Under 35 U.S.C. § 112

Claims 1-3, 5-11, 13-24, and 37-48 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

The Office Action states that "from the description above the validation manifest shown in 204 is a list of expected values, they are not computer executable validation actions." (Office Action, page 5.)

Applicants respectfully submit that the assertion made by the Office Action is not correct. The validation manifest as claimed is not just a list of expected values. Instead, in the present application, the validation manifest includes both 1) validation actions and 2) any expected values and responses when the validation actions are carried out. (Page 7, lines 23-28.) Claims 1-24 and 34-48 recite "the validation manifest *comprising* computer executable validation actions" which has clear support from the present specification.

The Office Action further states that "computer executable validation action should be instructions or program code, e.g., script languages, or testing tools." Applicants point out that the present specification clearly describes that "validation actions" are "tokens and data **representing instructions** to the **validation process** 208 to be carried out on the computer 102 and/or software application 210." (Page 7, lines 23-28.) Indeed, the present specification discloses that "the validation process 208 may be **executed** against any suitable software application installed on the computer 102." Applicants assert that, in view of the above-mentioned portions of the specification, one of ordinary skill in the art would understand that validation actions representing instructions to the validation process are in fact computer executable instructions or program code.

For the reasons set forth above, the rejection of Claims 1-3, 5-11, 13-24, and 37-48 is improper and should be withdrawn. Applicants request that Claims 1-3, 5-11, 13-24, and 37-48 be allowed.

Rejections Under 35 U.S.C. § 102

Claims 1-5, 7-17, 19-29, 31-41, and 43-49 stand rejected under 35 U.S.C. § 102(c) as being anticipated by McDonald. Applicants respectfully traverse the rejections.

Claim 1

As amended, Claim 1 recites, in part, the following:

obtaining a validation manifest from the software provider of the software application for validating the installation of the software application, *the validation manifest comprising computer-executable validation actions* for determining whether the software application is properly installed on the target computer and *a computer-executable corrective action* for correcting an improperly installed software application, wherein the validation actions comprise executing a comparison instruction independent of the execution of the software application to compare an aspect of the software application to corresponding validation response information in the validation manifest;

executing the validation actions in the validation manifest, wherein each executed validation action results in a positive result or a negative result;

detecting whether a predetermined threshold number of negative results is resulted, if so: *executing a corrective action associated with each validation action* that results in a negative result; and

based on the results of the executed validation actions, determining whether the software application is properly installed on the target computer (emphasis added).

Applicants respectfully submit that these elements are not taught or disclosed by McDonald. For example, McDonald fails to teach at least "executing the validation actions in

the validation manifest until a predetermined threshold number of negative results is detected, wherein each executed validation action results in a positive result or a negative result," as recited in Claim 1.

In general, McDonald is directed to "a system and method for updating a software acceptance testing database via a communications network" (Abstract). According to McDonald, each technician tests assigned functions, fixes problems if possible, and logs the testing results in a single database so that customers can check the current status of the testing. The results are entered as "pass," "fail," "fail again," "change to fail," etc. See Col. 4, lines 55-60. However, there is no teaching in McDonald relating to "a predetermined threshold number of negative results" where "each executed validation action results in a positive result or a negative result," as recited in Claim 1. Further, there is no teaching in McDonald relating to "executing the validation actions in the validation manifest until a predetermined threshold number of negative results is detected." For at least these reasons, McDonald fails to teach all elements and features of Claim 1.

In addition, McDonald also fails to teach "the validation manifest comprising computer-executable validation actions for determining whether the software application is properly installed on the target computer and a computer-executable corrective action for correcting an improperly installed software application," as recited in amended Claim 1. McDonald purportedly discloses **a list of functions to be tested**, which "is entered into a software acceptance/regression testing database" (Col. 3, lines 47-49) where the software acceptance/regression testing database is "created for tracking functions to test and for logging problems found" (Col. 3, line 21-22). It is apparent that, in McDonald, the client/tester manually carries out the test for the listed functions. Applicants respectfully assert that the

computer-executable validation actions, as recited in Claim 1, are fundamentally different from the list of functions to be tested.

Further, nowhere in McDonald is it taught or disclosed that "the validation manifest" comprises "a computer-executable corrective action for correcting an improperly installed software application," as recited in Claim 1. The Office Action points to McDonald, at Col. 1 lines 50-55, as disclosing the corrective action feature. Applicants respectfully disagree. The relied upon portions of McDonald are directed to a problem of creating several versions of a tracking database when the database is shared by multiple geographically diverse users. As noted in the Office Action, McDonald discloses "a notation of the fix" that is entered into the database after a software developer fixes a software bug. Applicants assert that such disclosure of McDonald has nothing to do with "a computer-executable corrective action for correcting an improperly installed software application," as recited in Claim 1. As best understood, McDonald merely discloses and teaches that a software tester corrects a software bug and logs such activity into a tracking database. It is clear that McDonald fails to teach "the validation manifest" comprises "a computer-executable corrective action for correcting an improperly installed software application," as recited in Claim 1.

Applicants further submit that McDonald fails to disclose "executing the validation actions in the validation manifest," as recited in Claim 1, especially in the context of the claim as a whole. Indeed, the claim further recites "the validation actions comprise *executing* a *comparison instruction* independent of the execution of the software application." In contrast, McDonald discloses that a software vendor provides a list that identifies functions that the client/tester is to test. Nothing in McDonald discloses that these identified functions are computer-executable instructions.

For the reasons set forth above, McDonald fails to teach or disclose all elements of Claim 1. Applicants respectfully submit that amended Claim 1 is allowable over McDonald and request the rejection of Claim 1 under 35 U.S.C. 102(e) be withdrawn.

Claims 2, 5, and 7-11

Claims 2, 5, and 7-11 depend from independent Claim 1. As Claim 1 is in condition for allowance, applicants submit that Claims 2, 5, and 7-11 are also in condition for allowance. Accordingly, applicants request that the 35 U.S.C. § 102(e) rejections be withdrawn and the claims allowed.

Claim 13

Claim 13, as amended, recites, in part, the following:

obtains a validation manifest associated with the software application from the provider of the software application, *the validation manifest comprising a plurality of computer-executable validation actions* for determining whether the software application is properly installed on the target computer, wherein *the validation actions comprise executing a comparison instruction* independent of the execution of the software application to compare an aspect of the software application to corresponding validation response information in the validation manifest;

executes each validation action in the validation manifest until a predetermined threshold number of negative results is detected, wherein the executed validation action results in a positive result or a negative result (emphasis added).

Applicants respectfully submit that these elements are not taught or disclosed by McDonald. For example, McDonald fails to teach at least "executing the validation actions in the validation manifest until a predetermined threshold number of negative results is detected,

wherein each executed validation action results in a positive result or a negative result," as recited in Claim 13.

As discussed above with respect to Claim 1, in McDonald, each technician tests assigned functions, fixes problems if possible and logs the testing results in a single database so that customers can check the current status of the testing. The results are entered as "pass," "fail," "fail again," "change to fail," etc. See Col. 4, lines 55-60. However, there is no teaching in McDonald relating to "a predetermined threshold number of negative results" where "each executed validation action results in a positive result or a negative result," as recited in Claim 13. Further, there is no teaching in McDonald relating to "executing the validation actions in the validation manifest until a predetermined threshold number of negative results is detected." For at least these reasons, McDonald fails to teach all elements and features of Claim 13.

In addition, McDonald also fails to teach "computer-executable validation actions for determining whether the software application," as recited in Claim 13. While McDonald purportedly discloses **a list of functions to be tested**, which "is entered into a software acceptance/regression testing database" (Col. 3, lines 47-49) where the software acceptance/regression testing database is "created for tracking functions to test and for logging problems found" (Col. 3, line 21-22), it is apparent that the list of functions is text information that can be entered into the database. Applicants submit that a list of functions to be tested (even manually tested) cannot be construed as validation actions comprising computer-executable actions.

Applicants further submit that McDonald fails to disclose "executing the validation actions in the validation manifest," as recited in Claim 13, especially in the context of the claim as a whole. Indeed, the claim further recites "the validation actions comprise *executing* a *comparison instruction* independent of the execution of the software application." In contrast,

McDonald discloses that a software vendor provides a list that identifies functions that the client/tester is to test. Nothing in McDonald discloses that these identified functions are computer-executable instructions.

For the reasons set forth above, McDonald fails to teach or disclose all elements of Claim 13. Applicants respectfully submit that amended Claim 13 is allowable over McDonald and request the rejection of Claim 13 under § 102 be withdrawn.

Claims 14-17 and 19-24

Claims 14-17 and 19-24 depend from independent Claim 13. As Claim 13 is in condition for allowance, applicants submit that Claims 14-17 and 19-24 are also in condition for allowance. Accordingly, applicants request that the 35 U.S.C. § 102(e) rejections be withdrawn and the claims allowed.

Claim 25

While differing in scope, Claim 25 recites similar subject matter to that discussed above in regard to Claims 1 and 13. In particular, Claim 25 recites, *inter alia*:

obtain a validation manifest from the provider of the software application, the validation manifest comprising validation actions for determining whether the software application is properly installed on the client computer, ***each validation action comprising a computer-executable action*** for determining at least one aspect of whether the software application is properly installed on the client computer, data for use in the computer-executable action, and a result value indicative of whether at least the one aspect of the software application is properly installed on the client computer;

carry out the validation actions in the validation manifest until a ***predetermined threshold number of negative results is detected***, wherein each executed validation action results in a positive result or a negative result (emphasis added).

While McDonald may disclose providing a list of functions to be tested to a tester, applicants submit that a list of functions to be tested (even manually tested) cannot be construed as validation actions comprising computer-executable actions. Accordingly, McDonald fails to teach or disclose "each validation action comprising a computer-executable action or determining at least one aspect of whether the software application is properly installed on the client computer," as recited in Claim 25.

As discussed above in connection with Claims 1 and 13, McDonald also fails to disclose or teach "a predetermined threshold number of negative results," as recited in Claim 25.

For at least the reasons discussed above with respect to Claims 1 and 13, applicants submit that McDonald fails to disclose each and every element of independent Claim 25. Accordingly, applicants request that the 35 U.S.C. § 102(e) rejection be withdrawn and the claim allowed.

Claims 26-29 and 31-36

Claims 26-29 and 31-36 depend from independent Claim 25. As Claim 25 is in condition for allowance, applicants submit that Claims 26-29 and 31-36 are also in condition for allowance. Accordingly, applicants request that the 35 U.S.C. § 102(e) rejections be withdrawn and the claims allowed.

Claim 37

While differing in scope, Claim 37 recites similar subject matter to that discussed above in regard to Claims 1 and 13. In particular, Claim 37 recites, *inter alia*:

obtaining a validation manifest associated with the software application from the software application provider, the validation manifest comprising computer-executable validation actions for determining whether the software application is properly installed on the target computer;

executing the validation actions in the validation, wherein each executed validation action results in a positive result or a negative result;

detecting whether a predetermined threshold number of negative results is resulted, if so: executing a corrective action associated with each validation action that results in a negative result (emphasis added).

As discussed above in connection with Claims 1 and 13, McDonald fails to teach or disclose these elements and features. Thus, for at least the same reasons, applicants submit that McDonald fails to disclose each and every element of independent Claim 37. Accordingly, applicants request that the 35 U.S.C. § 102(e) rejection be withdrawn and the claim allowed.

Claims 38-41 and 43-48

Claims 38-41 and 43-48 depend from independent Claim 37. As Claim 37 is in condition for allowance, applicants submit that Claims 38-41 and 43-48 are also in condition for allowance. Accordingly, applicants request that the 35 U.S.C. § 102(e) rejections be withdrawn and the claims allowed.

Claim 49

While differing in scope from other independent claims, Claim 49 recites similar subject matter to that discussed above in regard to Claim 1. In particular, Claim 49 recites, *inter alia*:

obtaining a validation manifest associated with the software application from the provider of the software application, *the validation manifest* comprising validation actions for determining whether the software application is properly installed on the target computer, *wherein each validation action in the validation manifest comprises a token corresponding to a computer-executable action, data for use by the computer-executable action in validating the software application, and an expected result of the computer-executable action indicative of a valid installation*

executing the validation actions in the validation manifest until a **predetermined threshold number of negative results is detected,**

wherein each executed validation action results in a positive result or a negative result (emphasis added).

As discussed above in connection with Claims 1 and 13, McDonald fails to teach or disclose these elements and features. Applicants also note that McDonald fails to disclose that the list of functions to be tested includes "*data for . . . validating the software application*," as recited in Claim 49. Simply put, the McDonald list identifies functions to be tested, not computer-executable actions and data to support those actions. Further still, McDonald fails to disclose an "*expected result of the computer-executable action indicative of a valid installation*," as recited in Claim 49.

For at least the reasons discussed above with respect to Claims 1 and 13, applicants submit that McDonald fails to disclose each and every element of independent Claim 49. Accordingly, applicants request that the 35 U.S.C. § 102(e) rejection be withdrawn and the claim allowed.

Rejections Under 35 U.S.C. § 103

Claims 6, 18, 30, and 42 were rejected under 35 U.S.C. § 103(a) as being obvious in view of McDonald.

Applicants submit that Claims 6, 18, 30, and 42 are allowable in view of their dependency from allowable base claims. Further, Claims 6, 18, 30, and 42 recite additional elements which are not taught or suggested by McDonald. Accordingly, applicants submit that Claims 6, 18, 30, and 42 are in condition for allowance. Applicants respectfully request that the 35 U.S.C. § 103(a) rejections of Claims 6, 18, 30, and 42 be withdrawn and the claims allowed.

New Claims

Claim 50 has been newly added. Support for the newly added Claim 50 can be found at page 12 and elsewhere in the present specification. No new matter has been introduced.

CONCLUSION

In view of the foregoing, applicants submit that Claims 1-3, 5-11, and 13-50 are in condition for allowance. Reconsideration and allowance of the pending claims at an early date is requested. If the Examiner has any questions regarding this matter, the Examiner is invited to contact applicants' representative at the number below

Respectfully submitted,

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